

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Charles Benjamin Proffitt,)	C/A No. 8:19-cv-03420-SAL
)	
Petitioner,)	
)	
v.)	OPINION & ORDER
)	
)	
Warden of McCormick)	
Correctional Institution,)	
)	
Respondent.)	
_____)	

This matter is before the Court for review of the June 9, 2020 Report and Recommendation (“Report”) of United States Magistrate Judge Jacquelyn D. Austin, ECF No. 39, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 (D.S.C.). In the Report, the Magistrate Judge recommends dismissing this action for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Specifically, dismissal is recommended where, after receiving multiple extensions of time to do so, ECF Nos., 28, 35, 37, Plaintiff failed to respond to Defendants’ pending motion for summary judgment. ECF No. 19. No party filed an objection to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, the Petition, ECF No. 1 DISMISSED with prejudice for failure to prosecute, and Respondent’s Motion for Summary Judgment, ECF No. 19, is DENIED as moot.

/s/
Sherri A. Lydon
United States District Judge

July 22, 2020

Florence, South Carolina